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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,646	04/08/2004	Ralph E. Wesinger JR.	GRAPH-005COL	8999
28661	7590	08/22/2007		
SIERRA PATENT GROUP, LTD. 1657 Hwy 395, Suite 202 Minden, NV 89423			EXAMINER DARNO, PATRICK A	
			ART UNIT	PAPER NUMBER
			2163	
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			08/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/821,646

**Applicant(s)**

WESINGER ET AL.

**Examiner**

Patrick A. Darno

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-20 have been cancelled. Claims 21-41 are pending in this office action.

***Affidavit - 37 C.F.R. 1.131***

2. The Affidavit submitted with respect to 37 C.F.R. 1.131 is found to be deficient because the Affidavit fails to adequately show conception of the claimed invention. In order to adequately show conception of the claimed invention, the Applicant must show possession of every feature recited in the claim, and that every element of the claimed invention was known to the inventor at the time of the alleged conception. There is nothing in the submitted affidavit which adequately shows that the Applicant had possession of each and every element of the claimed invention. The claims of record have not been mapped to anything existing at the time of the alleged conception in order to adequately suggest that the Applicant conceived of the invention at the alleged date. Therefore, the Affidavit submitted under 37 C.F.R. 1.131 is found to be deficient for at least the reasons stated above. See at least MPEP 2138.04 for guidance.

The rejections under 35 U.S.C. 102(e) given below are maintained.

3. The Affidavit submitted with respect to 37 C.F.R. 1.131 is found to be deficient because the Affidavit fails to adequately show due diligence in reducing the invention to practice. This deficiency arises because there are extended periods of time where the Applicant fails to show that the invention was being diligently pursued. Consult at least MPEP 715.07(a).

4. With respect to bullet number 10 of the submitted affidavit, the Applicant makes the statement, "I believe that Mr. Coley may have also attended the meeting." An indefinite statement like this is not proper in an affidavit of this kind. Only definite, concrete evidence can be used in an affidavit of this manner. Any other statements of this kind should also be revisited

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and corrected in order to set forth definite, concrete evidence as to the evolutionary history of the Applicant's invention such that the date of invention can be properly determined.

5. With respect to Exhibit 2 submitted with the Applicant's affidavit, a graphic picture of what appears to be a golfer fails to adequately show that the website of the claimed invention actually existed and was properly functioning before the filing date of the reference. It is unclear to the Examiner as to why this graphic is relevant to the submitted affidavit.

6. Because the affidavit fails to adequately prove a date of invention prior to the earliest priority date of the Schloss reference (U.S. Patent Number 5,706,507), the rejections under 35 U.S.C. 102(e) are upheld.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 21-41 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 5,706,507 issued to Robert Jeffrey Schloss (hereinafter "Schloss").

**Claim 21:**

Schloss discloses a new method for allowing a user to post data about a category:

providing a web-accessible database modifiable by a user over a public network, said database including data entries posted by users of the database (*Schloss: Fig. 1, 7 and Fig. 2, 7 and column 3, lines 61-67 and column 4, lines 1-7*);

receiving a request from said user to update the category in which a web page owned by the user is indexed in said web-accessible database (*Schloss: column 6, lines 1-6; Note specifically that the client request submitted to the 'advisory-server' can be data in 'contrast' to that of the original rating of the web site.*

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*So, by submitting a request stating that the user's opinion of the site is different than the advisory server's opinion, the user is request an update to the category (characterization) of the web page.);*

allowing the user to change the category of said web page to a user-specified category  
*(Schloss: column 9, line 59 - column 10, line 3; Note specifically that, at the very least, the user can change between two user defined categories ('not considered offensive' and 'include in offensive'). );*

allowing the user to provide a description of the new category *(Schloss: column 9, lines 46-49 and column 9, lines 59-61 and Fig. 11); and*

automatically updating said web page, said category description, and data entries associated with said web page in said web-accessible database in said user-specified category  
*(Schloss: column 10, lines 2-3; When the user moves the web page to another category, the web page, category, and therefore the data entries are updated.).*

**Claim 22:**

Schloss discloses all the elements of claim 21, as noted above, and Schloss further discloses a method comprising the act of allowing the user to define a new category in said web-accessible database *(Schloss: column 9, lines 46-49 and column 9, lines 59-61 and column 9, line 5 - column 10, line 3 and Fig. 11).*

**Claim 23:**

Schloss discloses all the elements of claim 21, as noted above, and Schloss further discloses wherein said data entries include non-textual content *(Schloss: column 1, lines 34-35 and column 12, lines 50-51).*

**Claim 24:**

Schloss discloses all the elements of claim 23, as noted above, and Schloss further discloses wherein said non-textual content comprise graphics (*Schloss: column 1, lines 34-35 and column 12, lines 50-51*).

**Claim 25:**

Schloss discloses all the elements of claim 24, as noted above, and Schloss further comprising the act of allowing said user to index said selected entry in said on-line database with at least one user-defined keyword (*Schloss: column 6, lines 1-6*).

**Claim 26:**

Schloss discloses all the elements of claim 25, as noted above, and Schloss further comprising the act of allowing said user to add a URL to said entry in said on-line database (*Schloss: column 5, lines 7-10 and column 9, lines 46-58; The advisory servers are identified by URL and the user can add advisory services to a list stored in a database.*).

**Claim 27:**

Schloss discloses claim 26, further comprising the act of said allowing user to add a hyperlink to said entry in said on-line database (*Schloss: column 4, lines 26-29 and column 5, lines 7-10 and column 9, lines 46-58; The advisory servers are identified by URL and the user can add advisory services to a list stored in a database. Furthermore, adding hyperlinks and URL to databases is well known in the art.*).

**Claim 28:**

Claim 28 is rejected under the same reasons set forth in the rejection of claim 21.

**Claim 29:**

Claim 29 is rejected under the same reasons set forth in the rejection of claim 22.

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**Claim 30:**

Claim 30 is rejected under the same reasons set forth in the rejection of claim 23.

**Claim 31:**

Claim 31 is rejected under the same reasons set forth in the rejection of claim 24.

**Claim 32:**

Claim 32 is rejected under the same reasons set forth in the rejection of claim 25.

**Claim 33:**

Claim 33 is rejected under the same reasons set forth in the rejection of claim 26.

**Claim 34:**

Claim 34 is rejected under the same reasons set forth in the rejection of claim 27.

**Claim 35:**

Claim 35 is rejected under the same reasons set forth in the rejection of claim 21.

**Claim 36:**

Claim 36 is rejected under the same reasons set forth in the rejection of claim 22.

**Claim 37:**

Claim 37 is rejected under the same reasons set forth in the rejection of claim 23.

**Claim 38:**

Claim 38 is rejected under the same reasons set forth in the rejection of claim 24.

**Claim 39:**

Claim 39 is rejected under the same reasons set forth in the rejection of claim 25.

**Claim 40:**

Claim 40 is rejected under the same reasons set forth in the rejection of claim 26.

**Claim 41:**

Claim 41 is rejected under the same reasons set forth in the rejection of claim 27.

***Response to Arguments***

**Examiner Notes:**

It is noted that no arguments were submitted with respect to the prior art cited against the Applicants claims. Since the affidavit submitted was found to be deficient, the rejections given under 35 U.S.C. 102(e) are maintained.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick A. Darno whose telephone number is (571) 272-0788. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.



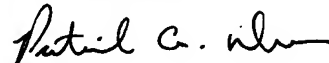
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PAD

Patrick A. Darno  
Examiner  
Art Unit 2163



WILSON LEE  
PRIMARY EXAMINER